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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,977	07/11/2003	Rolf Espe	912.001	4056
23598	7590	03/22/2006		
BOYLE FREDRICKSON NEWHOLM STEIN & GRATZ, S.C. 250 E. WISCONSIN AVENUE SUITE 1030 MILWAUKEE, WI 53202			EXAMINER PIERCE, JEREMY R	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/617,977

Applicant(s)

ESPE, ROLF

Examiner

Jeremy R. Pierce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,6-8 and 11-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6-8 and 11-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 8, 2006 has been entered.

### ***Response to Amendment***

2. Applicant's response filed on February 8, 2006 has been entered. No claim amendments have been made. Claims 1, 2, 4, 6-8, and 11-20 are currently pending.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 4, 6, 8, 11-13, 15-18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Espe (US 2001/0029139) in view of Kositzke (U.S. Patent No. 4,909,284).

With regard to claims 1 and 11, Espe discloses a press pad comprising warp and weft threads wherein at least some of the threads include an elastomer material (Abstract). Espe teaches that the warp and weft threads may both comprise a thread core of a high-strength, temperature resistant yarn material, and a thread sheath of a fluoroelastomer or fluorosilicone elastomer (paragraph 38). Espe does not teach that alternating threads include two types of thread of different elasticities transverse to the thread axis. Kositzke teaches woven fabric useful in dewatering operations (column 1, lines 12-27). Kositzke discloses that varying the diameters of the weft yarns can optimize fiber support on the sheet supporting surface and abrasion resistance on the wear surface (Abstract). Kositzke shows weft fibers that alternate in diameter to achieve this purpose (Figure 3). It would have been obvious to a person having ordinary skill in the art at the time of the invention to alternate the diameter of the weft fibers in Espe in order to optimize fiber support on the sheet supporting surface and abrasion resistance on the wear surface, as taught by Kositzke. The fibers of Espe would then have alternating elasticities transverse to the thread axis created by the different sizes in diameter.

With regard to claim 2, Espe teaches polymer may be present on all fibers (paragraph 41). With regard to claims 4, 6, 8, 15, 16, and 20, Espe teaches the fibers may be bunched metal fibers (Figure 1 and paragraph 39). With regard to claims 12, 13, and 17, the core has a higher tensile strength than the sheath and is made of metal (paragraph 41). With regard to claim 18, the sheath of Espe is temperature resistant over 250 degrees Celsius (paragraph 33).

5. Claims 7, 14, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Espe in view of Kositzke and further in view of Douglas et al. (U.S. Patent No. 5,855,733).

Espe does not disclose the core material to be polyamide. Douglas et al. disclose that aromatic polyamide is a useful non-metallic substitute for metal fibers in press pads (column 4, lines 41-46). It would have been obvious to a person having ordinary skill in the art at the time of the invention to use polyamide in the press pad of Espe, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. *In re Leshin*, 125 USPQ 416.

### ***Response to Arguments***

6. Applicant's arguments filed February 8, 2006 have been fully considered but they are not persuasive.

7. Applicant argues that Kositzke does not teach a press pad characterized in that the pattern of alternating types of threads includes at least two types of thread of different elasticities transverse to the thread axis, each type of thread comprising a sheath made of an elastomeric material and a core with a higher tensile strength than the sheath. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed.

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Cir. 1986). The rejection is based on the combination of Espe with Kositzke. A person of ordinary skill in the art would use the Kositzke reference as a teaching to alternate diameter size of fibers in the Espe reference. Once the fibers of Espe, which are formed of a sheath of elastomeric material surrounding a core of high tensile strength material, have alternating diameter sizes, the resulting elasticities transverse to the thread axis would also be different and alternating. A greater fiber diameter would mean more elastomeric material and therefore a greater elasticity transverse to the thread axis than a smaller fiber diameter would have.

8. Applicant argues there is no motivation to combine Espe with Kositzke. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, press pads and papermaking belts are both woven fabric designed to act as a support in forming other articles and are therefore related. Applicant points to Espe being classified in 442, while Kositzke is not classified in 442. However, class 442 did not exist at the time the Kositzke patent was published. Class 442 is born out of and an integral part of class 428. The classification of Kositzke in 428/224 would represent class 442/207 today (The Examiner notes that 428/224 does not exist today because it has been replaced by

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what is now class 442). In reality, these two patents are actually in the exact same class. Kositzke provides a person of ordinary skill in the art with the means of providing a smooth surface in a support fabric, so its combination with Espe is proper.

9. Applicant argues that the Examiner does not provide a logical argument that the combination of references teaches threads of alternating elasticity using threads each comprised of a sheath made of an elastomeric material and a core of higher tensile strength than the sheath. However, the feature of providing alternating elasticity in the threads would be provided by using fibers with alternating diameter sizes in the invention of Espe. Kositzke teaches the concept of using alternate diameter sizes, and motivation exists for using this teaching in the Espe reference. Therefore, the combination meets the limitations of the claimed product.

10. Applicant argues that Douglas et al. does not teach polyamide can be used as a substitute for a metal core within a sheath of elasticity. However, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. Espe is used for the teaching of metal core fibers with a sheath of elastomeric material. Douglas et al. teach that press pads have warp strands that are metal wire (column 4, lines 10-14). Douglas et al. then go on to say that non-metal strands such as polyamide can also be used for warp strands (column 4, lines 41-42). Therefore, Douglas et al. provide an express suggestion to substitute polyamide strands for metal threads in press pad applications.

### ***Conclusion***

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11. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

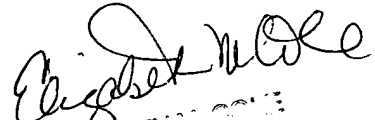
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy R. Pierce whose telephone number is (571) 272-1479. The examiner can normally be reached on normal business hours, but works flextime hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jeremy R. Pierce  
March 17, 2006

  
Elizabeth M. Cole  
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